Case No: YAMAP0572USA

PATENT

CERTIFICATE OF MAILING OR FACSIMILE TRANSMISSION UNDER 37 CFR 1.8(a)

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Mark D. Saralino

February 16, 2005
Date

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Hitoshi KAWAMUKAI et al.

Serial No.: 09/829,361

Filing Date: April 9, 2001

For: REPRODUCTION APPARATUS

Examiner: Tadesse Hailu

Art Unit: 2173

APPELLANTS' APPEAL BRIEF

Mail Stop APPEAL BRIEF - PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPELLANTS' APPEAL BRIEF UNDER 37 CFR §41.37

Sir:

This is an appeal from the decision mailed on November 16, 2004, twice rejecting claim 6 in the above-identified application.

This Appeal Brief is being submitted together with a Notice of Appeal and appropriate fees.

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I. REAL PARTY IN INTEREST

The real party in interest is the assignee, Matsushita Electric Industrial Co., Ltd.

II. RELATED APPEALS AND INTERFERENCES

There are presently no other appeals or interferences which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

III. STATUS OF CLAIMS

Claims 1-6 are in the application. The status of these claims is as follows:

Claims 1-5: Canceled; and

Claim 6: Rejected

The subject of this appeal is the rejection of claim 6. Attached is a Claims Appendix containing a copy of appealed claim 6.

IV. STATUS OF AMENDMENTS

Applicants amended the claims most recently in their response to the Office Action mailed on March 4, 2004. All amendments to the claims have been entered.

V. SUMMARY OF CLAIMED SUBJECT MATTER

The present invention relates to a recording medium on which transport stream data has been recorded. The recording medium may be, for example, an optical disk 21, 611 (Figs. 2, 6). Alternatively, the recording medium may be any recording medium other than optical disks. (Spec., p. 16, lns. 23-26).

As recited in claim 6, the recording medium includes transport stream data recorded thereon. The present application describes such transport stream data, i.e., a multistream composed of a plurality of streams in such a manner that the images of different "angles" are contained in respectively different streams. (Spec., p. 25, lns. 4-11).

FIG. 2

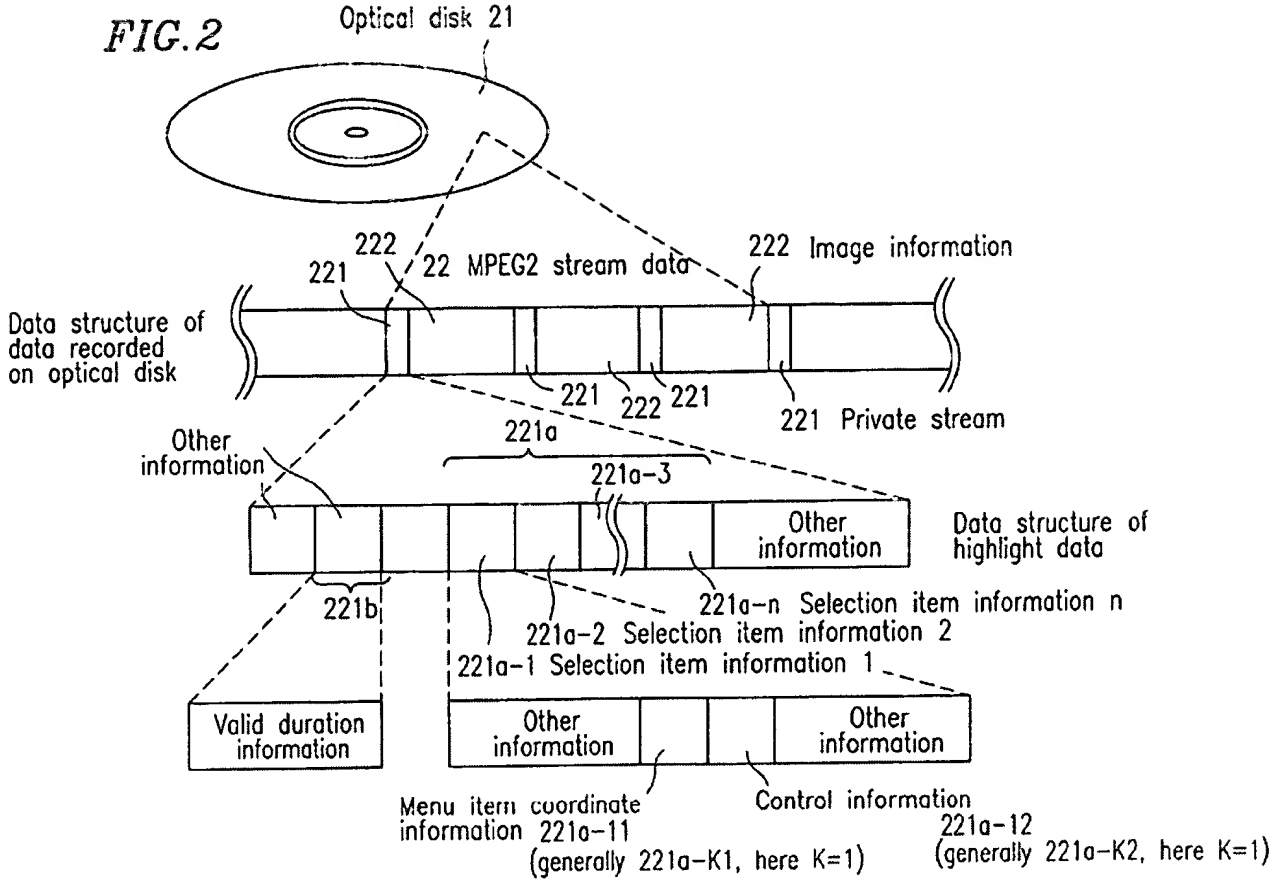

Fig. 2 of Present Application

Referring to Fig. 2 of the present application (reproduced above), for example, the transport stream data 22 includes menu item coordinate information (e.g., 221a-11) for representing a display location of a menu item. In addition, the transport stream data recorded on the recording medium 21 includes image information 222 for representing an image.

Furthermore, the transport stream data recorded on the recording medium 21 includes valid duration information 221b for representing the duration for which the menu item coordinate information (e.g., 221a-11) is valid. Moreover, the menu item coordinate information (e.g., 221a-11) and the valid duration information 221b is

inserted in the transport stream data 22 recorded on the recording medium 21 at predetermined time periods. (See, e.g., Spec., p. 7, ln. 9 to p. 8, ln. 12).

The present application describes how prior art techniques for selecting one of a plurality of items contained in a menu representing information stored on a recording medium is not very interactive. Specifically, selecting an item by pressing a number key of a remote controller is not very interactive. Moreover, selecting one of a plurality of angles from only one angle is not very interactive because the user needs to know in advance when it is possible to select from a plurality of angles. (Spec., p. 3, lns. 4-14).

The present invention, on the other hand, makes possible the advantages of providing a recording medium and reproduction apparatus which allows the selection of desired image information in an interactive manner. Specifically, the combination of menu item coordinate information, image information and valid duration information withing transport stream data recorded on a recording medium allows selection by directly pointing to a menu item or an angle on the display with a pointing device (e.g., a mouse or a touch panel). (Spec., p. 5, lns. 4-9).

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Whether claim 6 is properly rejected under 35 USC §102(e) as anticipated by Saeki et al.

VII. ARGUMENT

Claim 6 stands rejected under 35 USC §102(e) as being anticipated by commonly owned and assigned *Saeki et al.* In order for a rejection to be proper under §102(e), the reference must teach each and every element recited in the claim. Moreover, the reference must teach each and every element arranged as recited in the claim.

Claim 6 recites a recording medium on which transport stream data is recorded. As noted above, transport stream data refers to a multistream composed of a plurality of streams in such a manner that the images of different "angles" are contained in respectively different streams. The transport stream data includes menu item

coordinate information for representing a display location of a menu item, and image information representing an image. Moreover, the transport stream data recorded on the recording medium includes valid duration information representing the duration for which the menu item coordinate information is valid. The menu item coordinate information and valid duration information is inserted in the transport stream data at predetermined time periods.

The Examiner submits that Figs. 5-11, etc., of *Saeki et al.* disclose a recording medium having transport stream data recorded thereon as recited in claim 6. In applicants' response filed on October 25, 2004, however, applicants argued how transport stream data, as expressly noted in the present application, refers to a multi-stream composed of a plurality of streams in such a manner that the images of different "angles" are contained in respectively different streams. (See, e.g., Spec., Page 25, Lines 4-11). In *Saeki et al.*, the discussion of transport stream data is limited to use of transmission media such as telephone lines, Internet, LAN, and satellite broadcasting as previously argued by applicants. (See e.g., Column 29, Lines 28-39, reproduced and commented upon below). Applicants' interpretation is further supported by *Saeki et al.* in the discussion at Column 29, Lines 40-48. Specifically, when referring to transport stream data, *Saeki et al.* describes the reproduction apparatus as having a reception unit for *receiving* the transport stream (other system stream).

In other words, *Saeki et al.* does not describe transport stream data *recorded on the recording medium* as recited in claim 6. Instead, *Saeki et al.* describes the reproduction apparatus as having a reception unit for receiving the other system stream to be multiplexed in with the data recorded on the recording medium in order to form the transport stream. (See, e.g., Col. 29, lines 40-48).

The Examiner has referred to Column 29, Lines 28-39 of *Saeki et al.* as teaching transport stream data as recited in amended Claim 6. Specifically, *Saeki et al.* states:

> *The media **do not necessarily have to be information storage media** like optical discs. So long as image information and its control information can be interleaved into the medium, **the media may be wireless transmission media like broadcasting or wired transmission media like a communication line**. Here, examples of the transmission media are telephone lines, internet, LAN, and satellite broadcasting. As the video objects of the present embodiment are a type of MPEG data called "system*

> *stream", **in the case of the above mentioned transmission media, the video object will be transferred as transport stream** into which the system streams are multiplexed. Id. (Emphasis Added).*

As noted in the above passage from *Saeki et al.*, the reference may teach transferring data as a transport stream (i.e., "the video object will be transferred as transport stream"). However, *Saeki et al.* teaches utilizing transport stream data only in the context of a transmission media (i.e., "in the case of the above mentioned transmission media). *Saeki et al.* does not teach or suggest transport stream data for a recording medium as recited in claim 6.

In other words, *Saeki et al.* discloses an information storage media in the form of an optical disk. However, *Saeki et al.* does not teach or suggest utilizing transport stream data in connection with the optical disk. Rather, *Saeki et al.* teaches utilizing transport stream data in the case where the media is a transmission medium as opposed to a recording medium as recited in claim 6, such as an optical disk.

Applicants above position is further reinforced by *Saeki et al.* itself, wherein it is stated:

> *In the present embodiment, a video object stored in a different position on the disc is selected as the branch destination in the menu. On the other hand, in the case of the transport stream, what is selected as the branch destination is an other system stream which is multiplexed into the transport stream. In this case, instead of the motor 81, the light pickup 82, and mechanism control unit 83, the reproduction apparatus should have a reception unit for receiving the transport stream. (Col. 29, Ins. 40-48; Emphasis Added).*

In other words, the transport stream data in *Saeki et al.* is not stored on the recording medium (as recited in claim 6) so as to be reproduced by the motor 81, light pickup 82 and mechanism control unit 83. Rather, the reproduction apparatus in *Saeki et al. in the case of transport stream data* receives the transport stream data externally (i.e., not from the recording medium) through a reception unit.

The Examiner contends that the present application merely suggests "so called transport stream data". Otherwise, the disclosure is largely describing MPEG2 stream data (program stream). (OA mailed November 16, 2004, p. 4).

Applicants, on the other hand, note that the Examiner seems to be suggesting that since applicants did not discuss at considerable length the applicability of the present invention to transport stream data, the claimed limitation is not entitled to much weight. While applicants respectfully submit that there is in fact adequate support for transport stream data in the present application as noted above, the issue raised by the Examiner is whether there is support for the claimed invention as recited in claim 6. Whether there is support for a limitation in a claim has nothing whatsoever to do with whether such claim is anticipated under §102(e). The Examiner may not dismiss a limitation in a claim simply based on the belief that there is no support. Thus, the rejection is clearly improper.

As clearly described in the present application at page 25, lines 4-11, the invention of claim 6 is directed to a recording medium with transport stream data recorded thereon. In the case of transport stream data, *Saeki et al.* clearly teaches selecting a branch destination to another system stream separate and apart from the recording medium (disk) having the initial system stream data recorded thereon. (See, e.g., column 29, lines 34-48).

For at least the above reasons, *Saeki et al.* does not teach or suggest a recording medium having each and every feature as recited in claim 6. Therefore, the rejection of claim 6 is improper. Reversal of the rejection of claim 6 is respectfully requested.

The Commissioner is authorized to charge any fees (including additional claim fees) to Deposit Account No. 18-0988.

Respectfully submitted,

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DATE: February 16, 2005

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VIII. CLAIMS APPENDIX

6. A recording medium on which transport stream data has been recorded, the transport stream data comprising:

menu item coordinate information for representing a display location of a menu item;

image information for representing an image; and

valid duration information for representing the duration for which the menu item coordinate information is valid,

wherein the menu item coordinate information and valid duration information is inserted in the transport stream data at predetermined time periods.